

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STANLEY BROWN, JR.,)	CASE NO. 1:10cv1940
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	
)	MEMORANDUM OPINION AND
)	ORDER
STATE OF OHIO,)	
)	
)	
RESPONDENT.)	

On September 1, 2010, petitioner *pro se* Stanley Brown, Jr., an inmate at the Lorain Correctional Institution, filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. The petition challenges Brown's June 30, 2010 conviction and sentence for burglary (2 counts) and theft. He appears to assert that he is actually innocent and that the sentence imposed was unlawful under Ohio law.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

It is apparent of the face of the petition that Brown has an appeal pending in an Ohio appellate court, *see* Doc. No. 1, Petition, p. 4, and there is no suggestion Brown has otherwise exhausted state court remedies. Thus, without regard to the potential merits of the grounds sought to be raised herein, the petition is obviously premature.

Accordingly, this action is dismissed without prejudice pursuant to Rule 4

of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed .R. App. P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

Dated: November 22, 2010



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE